



**CONTAINS CONFIDENTIAL BUSINESS INFORMATION NOT SUBJECT TO  
DISCLOSURE UNDER FOIA**

August 6, 2021

**By Electronic Mail**

Thomas Carroll  
Acting Director  
Air Enforcement Division  
Office of Civil Enforcement  
U.S. Environmental Protection Agency  
William Jefferson Clinton Building  
1200 Pennsylvania Avenue, NW  
Mail Code: 2201A  
Washington, DC 20460

Re: August Update to Response to April 24, 2020 Letter from the U.S. Environmental  
Protection Agency

Dear Mr. Carroll:

Birla Carbon USA, Inc. ("Birla" or the "Company") submits this letter as the fifteenth update to its May 22, 2020 response to the April 24, 2020 letter it received from the U.S. Environmental Protection Agency ("EPA" or the "Agency") regarding force majeure notices the Company submitted on March 16 and 18, 2020 in anticipated noncompliance with obligations under the Consent Decree between the United States of America, the Louisiana Department of Environmental Quality ("LDEQ"), the Kansas Department of Health and Environment ("KDHE"), and Columbian Chemicals Company. Consent Decree, *United States et al. v. Columbian Chem. Co.*, No. 6:17-cv-01661-RGJ-CBW (W.D. La. June 11, 2018).

Please note that this letter and certain attachments to this letter include confidential business information ("CBI") and are marked as such. Documents marked for CBI are entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B, and are not subject to disclosure under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. We ask that LDEQ and KDHE similarly treat this as CBI under their analogous state laws.<sup>1</sup>

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<sup>1</sup> Certain attachments to this letter include CBI, which Birla has designated as such with the stamp "CONFIDENTIAL BUSINESS INFORMATION NOT SUBJECT TO DISCLOSURE UNDER FOIA." Based on a review of relevant LDEQ regulations, La. Admin. Code tit. 33, pt. I, § 501(A), Birla understands that it must submit any CBI via mail or delivery to

Birla Carbon USA, Inc.

1800 West Oak Commons Court, Marietta, Georgia 30062-2253  
T: (770)792-9400 | F: (770)792-9328 | W: [www.birlacarbon.com](http://www.birlacarbon.com)

## **I. North Bend**

Since our last update, construction is ongoing at North Bend for installation of equipment required under the Consent Decree.

Birla's vendor, [REDACTED], continues to estimate a two to four month delay for various components of the scrubber system. *See Confidential Attachment 1.* The vendor for the reactor vent scrubber system is experiencing delays due to lack of access to manufacturing facilities in connection with poor weather conditions and COVID-19 restrictions in India. *See Confidential Attachment 1.* Due to late equipment deliveries and an inability to obtain raw materials, the vendor for the reactor vent scrubber system estimates preparing the system for shipment via ocean vessel to the U.S. on October 10, 2021. *See Confidential Attachments 1 and 4.*

Additionally, the sound enclosures for the blowers to the SCR have been delayed by nearly two weeks from the original delivery date of June 25, 2021. *See Confidential Attachments 2 and 3.* The sound enclosures vendor is experiencing significant disruptions in India due to shutdowns, limited availability of labor, materials, and global transport and logistic issues. *See Confidential Attachment 3.* The current estimated delivery date of the sound enclosures is August 5, 2021. *See Confidential Attachment 3.*

The heat recovery steam generation ("HRSG") boiler was delayed nearly two months from the original delivery date. *See Confidential Attachment 1.* Delivery was made on March 4, 2021, and the equipment is currently being moved into place.

A new intake pump priming system had to be sourced from a new vendor, [REDACTED], following [REDACTED]' notification that due to the death of its company principal and COVID-19 related issues, it would not be able to complete its contract and deliver the [REDACTED] due for delivery on April 1, 2021. *See Confidential Attachment 1.* [REDACTED] delivered the new [REDACTED] in June 2021, a nearly two-month delay over the original delivery date of April 1, 2021. *See Confidential Attachment 1.*

The projected target completion date for the SCR and seawater scrubber is still December 31, 2021. *See Confidential Attachment 1.* However, due to the delays in delivery of the reactor vent scrubber system, the current reactor vent scrubber completion date is estimated to be March 31, 2022. *See Confidential Attachment 1.* Although the system can run without the reactor vent scrubber system, there is potential for PM emissions during the period of Heat Load Operations. Birla will attempt to provide an updated projected target completion date in our next update following actual equipment deliveries. Subject to the update, the final commissioning is anticipated to take place sometime in December 2021 with the Continuous Emissions Monitoring System ("CEMS") being certified around December 31, 2021.

## **II. Hickok**

Hickok is in continuous operations under the Consent Decree and is meeting its Consent Decree obligations as of June 12, 2021.

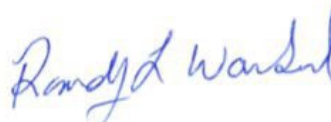
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LDEQ and not electronically. At this time, Birla is providing the entire submittal to EPA and KDHE, and will separately submit the letter and its attachments to LDEQ.

We have no further updates for Hickok at this time.

We will update you with more details as they become available. Please contact David Buente at 202-255-8684 or [dbuente@sidley.com](mailto:dbuente@sidley.com) if you have any questions in the meantime.

Sincerely,



Randy Waskul  
Global Director, Health, Safety & Environmental

CC: Kellie Ortega, U.S. EPA (by email)  
Patrick Foley, U.S. EPA (by email)  
Chris Williams, U.S. EPA (by email)  
Carlos Evans, U.S. EPA Region 6 (by email)  
Emad Shahin, U.S. EPA Region 6 (by email)  
Lisa Gotto, U.S. EPA Region 7 (by email)  
Lisa Hanlon, U.S. EPA Region 7 (by email)  
Amy Algoe-Eakin, U.S. EPA Region 7 (by email)  
Alex Chen, U.S. EPA Region 7 (by email)  
Thomas Mariani, U.S. DOJ (by email)  
Eli Quinn, U.S. DOJ (by email)  
Connie Ellis, KDHE (by email)  
Kate Gleeson, KDHE (by email)  
Deidre Johnson, LDEQ (by FedEx)  
David Buente, Sidley Austin LLP (by email)  
Peter Whitfield, Sidley Austin LLP (by email)

Enclosures: Confidential Attachment 1 - 2021 - 08 - 04 - North Bend - Letter from Engineer of Record

Confidential Attachment 2 - 2021 - 07 - 20 - North Bend - Letter from Scrubber System Vendor

Confidential Attachment 3 - 2021 - 07 - 16 - North Bend - Letter from Scrubber System Vendor

Confidential Attachment 4 - 2021 - 07 - 13 - North Bend - Reactor Vent Scrubber Update

# **CONFIDENTIAL ATTACHMENT 1**

2021-08-04 - North Bend -  
Letter from Engineer of Record

Attn: Mark B. Vannice, PE, Project Director  
Birla Carbon USA, Inc.  
Regional Office Marietta  
1800 West Oak Commons Ct  
Marietta, GA 30062

Letter: BC-016

Re: Purchase Order No. 2300002188; Notice of Force Majeure Event Update – Status as of August 4<sup>th</sup>, 2021

Dear Mr. Vannice:

Reference is made the above Purchase Order and the Professional Services Terms and Conditions (Agreement) and Letters BC-001 dated May 13<sup>th</sup>, 2020 and BC-002 dated June 17<sup>th</sup>, 2020. Terms not otherwise defined herein shall have the meaning assigned to them in the Agreement.

In accordance with Article 12(a) of the Agreement Engineer is providing Owner an update to the Force Majeure Event notice of May 13<sup>th</sup>, 2020. The Force Majeure Event is primarily the domino effect of uncontrolled delays and disruption of the global supply chain the Owner is experiencing from its Vendors supplying material and equipment to the Facility project; and secondarily the potential delay caused by disruptions in the available services to, and mobility of, Engineers' staff. The delays and disruptions to the supply chain as we are informed by notices from the Vendors to you are caused by impacts of the COVID-19 epidemic on the manufacture of materials and equipment. These delays are outside the control and without the fault of Engineer. To the extent these delays experienced by the Vendors affects the timely delivery of our Work that depends on inputs of information and ultimately delivery to the Facility in accordance with the Schedule, we are, or likely will be, seeking extensions on the Schedule for a time reasonably necessary to overcome the effect of the delay and additional compensation as appropriate. We are to the extent possible undertaking reasonable measures to make up for time lost caused by the delay and assisting Owner, to the extent possible, mitigating Vendor impacts.

August 4<sup>th</sup> , 2021  
Mr. Mark Vannice  
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As of August 4<sup>th</sup> , we are informed by Owner's Vendor [REDACTED] that they are incurring delays of anywhere from two (2) to four (4) months for various components of the AQCS due to the lack of access to manufacturing facilities in connection with the restrictions related to the COVID-19 virus. Additionally, the absorber manufacturer contracted by [REDACTED], [REDACTED], has issued [REDACTED] a Force Majeure claim as of March 2<sup>nd</sup>, claiming a two week delay due to the extreme cold weather event in February and Covid impacts. Delays in delivery of MHPS equipment are directly affecting the project schedule. Currently we are still awaiting the Absorber Feed pump motors, Absorber quench water pumps, FRP piping, Duct burners and Aeration blowers; all of which are directly impacting progress.

In addition, Owner's Vendor [REDACTED] delayed their hydrotest dates until January 18<sup>th</sup> and 29<sup>th</sup>, 2021, causing a delay of the delivery of the HRSG until March 3<sup>rd</sup>. This was over two months past the original delivery date.

A new priming system skid has been sourced after the original vendor backed out of their contract due to the death of the company Principal and Covid 19 impacts. The new vendor, [REDACTED], will now deliver the skid in August of 2021, an approximate slip of more than four months over the original delivery date of April 1<sup>st</sup>.

Additionally, the entire North Bend plant was evacuated the week of August 24<sup>th</sup>, 2020 due to two named storms, Hurricane Laura and Tropical Storm Marco.

Also, the entire North Bend facility was evacuated again October 8<sup>th</sup> – 11<sup>th</sup>, 2020 for Hurricane Delta. This evacuation had initially delayed the piling contractor [REDACTED] and they had issued a Force Majeure notice for this event. The piling is now complete, and this has been incorporated into the current schedule.

The latest extreme weather event to impact the project were the record cold in February 2021. The site was closed Feb 15<sup>th</sup> – 17<sup>th</sup> due to local roads being closed restricting access to the site. Additionally, we did close the site a few days in April due to lightning, but contractors worked Saturdays to mitigate.

These potential delays by the Vendors and the weather-related evacuations and closures of the site translates to a corresponding delay affecting the Engineer's Schedule that is also outside the control and without fault of Engineer. Engineer is taking every effort to overcome or mitigate the potential delays and will keep you informed as further information becomes available, so that we can work together cooperatively to address any problems that may arise on your Facility project.

August 4th , 2021  
Mr. Mark Vannice  
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After incorporating all the known FM delays and impacts into the project schedule, the completion date for the AQCS upgrade project is December 31<sup>st</sup> , 2021.

The vent scrubber project is experiencing delays due to late equipment deliveries. The scrubbers provided by [REDACTED] are being impacted the Covid 19 pandemic in India. Current ship date from India is October 1, 2021. The current estimated Vent Scrubber completion date is March 31<sup>st</sup>, 2021. However, this date is still fluid until all equipment deliveries can be confirmed.

We continue to monitor the situation and will keep the Owner apprised of additional delays or improvements as they are discovered.

Please feel free to contact me at [REDACTED] or [REDACTED] if you have any questions.

Sincerely,

cc: Randy Waskul, Birla  
[REDACTED]

August 4th , 2021  
Mr. Mark Vannice  
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**CONFIDENTIAL ATTACHMENT 2**

2021-07-20 - North Bend -  
Letter from Scrubber System Vendor

July 20, 2021

Birla Carbon U.S.A., Inc.  
Attn.: Mark Vannice  
1800 West Oak Commons Ct  
Marietta, Georgia 30062  
Email: mark.vannice@adityabirla.com

Re: Seawater Flue Gas Desulfurization System/  
Birla Carbon – North Bend Facility, Centerville, Louisiana  
PO Number: 2300002283  
Notice of Force Majeure Event

Dear Mr. Vannice,

Further to our conversation this morning, attached please find a notice of an adverse Force Majeure impact received from [REDACTED]. The adverse impact is due to COVID-19 on [REDACTED] blower sound enclosure sub supplier [REDACTED] which experienced significant disruptions due to widespread shutdown of the Indian economy during the months of March, April and May 2021, resulting in an unforeseen schedule delay for [REDACTED]'s fabrication and delivery of the Sound Enclosures to August 5<sup>th</sup> 2021. [REDACTED] is coordinating with [REDACTED] in order to mitigate these delays and will keep you informed as further information becomes available.


Please feel free to contact me at [REDACTED] or [REDACTED] if you have any questions.

Sincerely,

[REDACTED]  
Project Manager

**CONFIDENTIAL ATTACHMENT 3**


2021-07-16 - North Bend -  
Letter from Scrubber System Vendor






July 16, 2021



**Re:** Birla / North Bend Air Quality Control Upgrade



The global effects of COVID-19 (“Coronavirus”) are having various affects on ’s ability to meet project delivery schedules due to shutdowns limiting the availability of labor, material availability, and global transport/logistics issues.

We regret that we must give you this formal notification of a Force Majeure event specifically for the delivery of the sound enclosures for the blowers being provided by  for your Birla NAQCU project. The sound enclosures were sourced from our supplier in India, . We are informing you of this event based on the extent of significant disruptions in India due to widespread shutdown of their economy during the months of March, April and May 2021. Our original delivery commitment was for June 25, 2021. This event has now resulted in an estimated delivery of the sound enclosures for August 5, 2021.

Although this situation was caused by circumstances beyond our control, we sincerely regret any inconvenience our decision to invoke this clause in our agreement may cause to your business. At this time the continued ripple affects of Covid 19 on logistics and the supply chain are still not entirely clear and we continue to experience delays mainly due to material shortages and global logistics issues. However, Atlas Copco continues to work to do all that is reasonably possible to limit the consequences of this event and maintain updated deliverable schedules that have been provided due to the Force Majeure event.

Attachment: . Force Majeure letter dated May 12, 2021.

Regards,



[REDACTED]

Date- 12.05.2021

Force Majeure Clause

"Force Majeure" shall mean any circumstance/s beyond the reasonable Control of [REDACTED] its subsidiaries and their supply chain/s which prevent or impede the due performance despite such Party/Parties having used all reasonable measures to prevent or mitigate the effects of such circumstance/s in accordance with Good Industry Practice, including, but not limited to the following:

- a. Epidemic / Pandemic
- b. Exceptionally Severe Weather Conditions or the consequences thereof

The incidental shortage / unavailability of Labor, Materials, Utilities, Services and or any other factor; arising therefrom shall also constitute Force Majeure.

While [REDACTED] shall do everything in their control to perform as per commitments, they shall not be liable for any failure or delay in the performance of this Agreement for the period that such failure or delay is due to above causes beyond their reasonable control and shall be considered Force Majeure event/s.

For [REDACTED]

[REDACTED]

## **CONFIDENTIAL ATTACHMENT 4**

2021-07-13 - North Bend -  
Reactor Vent Scrubber Update

**STATUS UPDATE - [REDACTED] SCRUBBERS****PO No. 2300002757 dt. 05.04.2021****A. Engineering & Drawings****I. Preparation of Manufacturing Drawings:**

- i. Scrubber for Speciality Unit: 100% Equipment manufacturing drawings have been completed as scheduled.
- ii. Scrubber for Rubber Unit: 100% Equipment manufacturing drawings have been completed as scheduled.
- iii. Piping Header drawings for both units are planned for completion by 19-07-2021

**B. Procurement of Raw Material & Bought Outs****I. Raw Material Procurement:****i. Scrubber for Rubber Unit:**

- 1. SS 317L Plate material (6, 8 & 16 thk) ordered, received, tested and accepted. Mill TCs already submitted.
- 2. SS 317L Plate material (20 thk) ordered, received, tested and accepted. Mill TC is attached.
- 3. SS 304 Plate material (12 & 16 thk) ordered, 100% received. All Balance SS 304 grade material expected by 20-07-2021
- 4. SS 304 ANSI Flanges and Fittings ordered. Delivery expected by 10<sup>th</sup> August' 2021
- 5. SS 304 pipe ordering shall be completed by 26<sup>th</sup> July.
- 6. SS 317L Pipe pieces, ANSI Flanges & Fittings:
  - We appreciate quick response from Birla carbon on the MOC of Flanges. We have immediately placed order on 05-07-2021
  - We continue to explore SS 317L MOC for Fittings / Bars (5 sizes; Total 57 kg) & Pipes (5 sizes; Total 60 kg)
  - We are trying our best to procure above items in SS 317L even for the above minuscule requirement of ~ 117 kg.

ii. **Scrubber for Speciality Unit:**

1. SS 316L Plate material (6 thk) ordered, received, tested and accepted. Mill TC is attached.
2. SS 316L Flat material (16 thk) ordered, received, tested and accepted. Mill TC is attached.
3. SS 304 Plate material (12 & 16 thk) : Same as I.i.3 above
4. SS 304 ANSI Flanges and Fittings: Ordered. Delivery expected by 10th August.
5. SS 316 pipe procurement initiated as scheduled. SS 304 pipe ordering shall be completed by 26<sup>th</sup> July.
6. SS 316L, ANSI Flanges & Fittings: Ordered. Delivery expected by 10th August.

**II. Bought out Items:**

- i. Spray Nozzles – Orders Finalised & released. [REDACTED] Committed Delivery is 25<sup>th</sup> August.
- ii. Actuators– [REDACTED] committed Delivery is 30<sup>th</sup> August.
- iii. Actuated ball valves – Order Finalised & released. [REDACTED] Committed Delivery is 30<sup>th</sup> August
- iv. Other valves, fittings & miscellaneous items – Order of Major items finalized. Balance ordering will be completed by 15th July.

**C. Manufacturing:**

- I. Laser cutting / CNC cutting commenced from 3<sup>rd</sup> July as scheduled. Will be completed progressively by 24<sup>th</sup> July
- II. Rolling / Pressing of Shell, Cone, Flanges etc commenced from 3<sup>rd</sup> July as scheduled. Will be completed progressively by 30<sup>th</sup> July. Venturi pressing work will be completed by 9<sup>th</sup> August.
- III. Estimated Manufacturing period: July – September 2021. We are putting in special efforts.

**D. Packing & Shipment**

- I. Estimated shipment : 10th October 2021
- II. Estimated containers :
  - 40 Feet Flat rack container – 1 No
  - 40 Feet standard container – 1 No
  - 20 Feet standard container – 1 No

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